

BEFORE THE THREE PERSON DUE PROCESS HEARING PANEL
EMPOWERED BY THE MISSOURI STATE BOARD OF EDUCATION
PURSUANT TO SECTION 162.961 RSMo.

STUDENT,)	
)	
Petitioner,)	December 18, 2002
vs.)	
)	
CENTRAL R-III SCHOOL DISTRICT,)	
)	
Respondent.)	

COVER SHEET INFORMATION

1. ("Student") is the son of ("Parents"). Student was born on . Student's Social Security number is.

2. At all times material to this due process proceeding, Student resided with Parents in Park Hills, Missouri 63601, which residential address is located within the boundaries of the Central R-III Public School District.

3. The Parents and Student were represented at the hearing by Student's mother.

4. The Central R-III Public School District was represented by:

Teri B. Goldman, Esq.
Teri B. Goldman, L.L.C.
36 Four Seasons Center, #136
Chesterfield, Missouri 63017

5. Parents initially requested due process by letter to the Department of Elementary and Secondary Education ("DESE") which was received by DESE on October 3, 2002. Parents supplemented their request on or about November 8, 2002.

6. The hearing panel:

Dr. Betty Chong, designated by School District
Mr. Fred Davis, designated by Parents
Richard H. Ulrich, Chairperson

7. Issues:

Was the IEP meeting for Student held at a mutually convenient time on October 8, 2002, and in compliance with the requirements mandated by the Individuals with Disabilities Act (“IDEA”). If not, did the non-compliance deny student of a free appropriate education, and, if so, what are the appropriate remedies?

8. The due process hearing was held on November 25, 2002.

9. The Decision was rendered on December 18, 2002.

CERTIFICATE OF SERVICE

The undersigned certifies that on the _____ day of December, 2002, a copy of the foregoing was served upon the following parties to this action by depositing same in Federal Express at St. Louis, Missouri, postage prepaid, duly addressed to:

Parents

Ms. Teri B. Goldman
36 Four Seasons Center, #136
Chesterfield, Missouri 63017
Attorney for School District

Pam Williams, Director
Special Education Compliance
Department of Elementary & Secondary Education
Post Office Box 480
Jefferson City, Missouri 65102

and further a copy of the foregoing was served upon the following parties by depositing same in the U.S. Mail, postage prepaid this _____ day of December, 2002, addressed to:

Mr. Fred Davis
9345 Ewers
Crestwood, MO 63126
Panel Member

Dr. Betty Chong
Assistant Superintendent for Special Services
Cape Girardeau Public Schools
61 North Clark
Cape Girardeau, MO 63701
Panel Member

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STUDENT,)	
)	
Petitioner,)	December 18, 2002
vs.)	
)	
CENTRAL R-III SCHOOL DISTRICT,)	
)	
Respondent.)	

DECISION

This Decision is the final decision of the hearing panel in an impartial due process hearing pursuant to the IDEA, 20 U.S.C. §1415(f) (1997), and Missouri Law, §162.961.3 RSMo.

The Parties

- The Student is
- Student's Parents are
- The Respondent is Central R-III School District
- Student's mother presented Petitioner's case
- The School District was represented by Teri B. Goldman, Esq., Teri B. Goldman, LLC, 36 Four Seasons Center, #136, Chesterfield, Missouri 63017.

Hearing Officers

- Dr. Betty Chong - Designated by School District
- Fred Davis - Designated by Parents
- Richard H. Ulrich - Hearing Chairperson

Relevant Dates/Procedural History/Explanation of Deviation from 45 day time line

1. Parents requested due process concerning Student by letter and attachments to the Department of Elementary and Secondary Education ("DESE") indicating that the letter was typed on September 6, 2002 and mailed to DESE on September 9, 2002. These documents were received by DESE on October 3, 2002. Thus, the deadline for hearing the case and completing and mailing a written decision was November 18, 2002.

2. By order of the Chairperson dated October 18, 2002, the hearing was set for November 5th and 16, 2002 with the decision to be rendered no later than November 18, 2002 (Exhibit R-25, p. 45).

3. By letter of October 21, 2002, School District requested a continuance of the hearing set for November 5th and 6, 2002 due to the unavailability of the District's attorney on those dates, (Exhibit R-25, p. 47).

4. By Order of the Chairperson dated October 25, 2002, District's request for a continuance was granted and the hearing was rescheduled for November 25, 2002, with the decision to be rendered no later than December 20, 2002 (Exhibit R-25, P. 50).

5. On or about November 8, 2002, Parents supplemented their Due Process Request (Exhibit R-25, pp. 53-54).

6. On or about November 12, 2002, District filed a Motion to Dismiss for Failure to State a Claim (Exhibit R-25, pp. 55-61).

7. By order of the Chairperson on November 11, 2002, the District's Motion to Dismiss was denied.

8. The hearing was held on November 25, 2002.

Issues

Was the IEP meeting for Student held at a mutually convenient time on October 8, 2002, and in compliance with the requirements mandated by the Individuals with Disabilities Act ("IDEA"). If not, did the non-compliance deny student of a free appropriate education, and, if so, what are the appropriate remedies?

FINDINGS OF FACTS

1. This matter involves the primary issue of whether the Central R-III School District (the “District”) scheduled an IEP meeting for Student in October of 2001 at a mutually convenient time as required by the Individuals with Disabilities Act (“IDEA”), and the corollary issue of whether the IEP meeting of October 8, 2001, complied with the IDEA requirements.

2. The hearing panel consists of Richard H. Ulrich, Esq., chairperson; Dr. Betty Chong (District’s selection); and Fred Davis (Parent’s selection).

3. A due process hearing was held on November 25, 2002. Petitioners were not represented by counsel. Student’s mother presented Petitioner’s case. The District was represented by Teri B. Goldman of Teri B. Goldman, LLC. Both parties presented written evidence and had the opportunity to call and cross-examine witnesses. Jennifer L. Liebach, a court reporter, was present and made a full record of the proceedings.

4. Student is a male sophomore in high school who resides in the Central R-III School District (“District”) with his parents, and attends Central R-III High School.

5. Student has a disability for purposes of the IDEA and the Missouri State Plan for Part B of the IDEA. Student is educationally diagnosed as visually impaired due to a medical diagnosis of retinitis pigmentosa (“RP”), which affects his peripheral vision.

6. At the time of hearing, Student was served during the regular school day in regular education with some accommodations. Student’s special education consists of instruction in Braille and orientation and mobility by a contracted provider, David Wicks. Mr. Wicks provides these special services to students of the District after school on Mondays. Mr. Wicks provides such services to students at numerous Missouri school districts, and was available to attend Student’s IEP meetings only after school on Mondays.

7. At the time of the hearing, Student, a tenth grader, was making excellent progress in school having scored at a plus twelve grade level on standardized testing.

8. On or about August 15, 2001, Parents corresponded with Terry Noble, the then-principal of the Central R-III High School, and asked that the District arrange an IEP meeting for Student. Ex. R-1. In that letter, Parents requested that the District attempt to include Mr. Wicks as well as their advocate, Darlene Staples-Felts. Ms. Felts is not employed by the District and is not a mandatory member of Student's IEP team.

9. On or about August 21, 2001, the District provided the Parents with a notice indicating that the District was proposing to schedule an IEP meeting to meet its IDEA annual review deadline. Ex. R-2.

10. On or about August 22, 2001, Barbara Bouchard, the District's Director of Special services, corresponded with Parents to inform them that the District was arranging a time for Student's annual IEP review. Ex. R-3. In making those arrangements, the District was waiting for Mr. Wicks to indicate his availability which was mandatory. Ex. R-3. In that letter, Mrs. Bouchard also informed Parents that they could invite any other individuals with knowledge of Student to attend the meeting. Ex. R-3.

11. On or about August 24, 2001, Claudette Clark, Student's IEP case manager, corresponded with Parents and requested that they, in anticipation of the annual IEP review, provide a list of any items that they wished to have included on the meeting agenda. Ex. R-4. Subsequently, Ms. Clark was out of school on medical leave, and returned to her employment at the school on September 26.

12. On or about August 25, 2001, Parents corresponded with the District. Ex. R-5. That letter includes a list of four questions to which the Parents wish to have answers. Ex. R-5 at 7.

13. On or about September 19, 2001, while on medical leave, Ms. Clark provided the Parents with a written notification for an IEP meeting scheduled for October 1, 2001 at 4:00 p.m. Ex. R-6.

14. On or about September 19, 2001, Student's mother telephoned and spoke to Lisa Hulsey, the secretary for High School Principal Terry Noble, regarding the October 1 IEP meeting date. During that conversation, Student's mother indicated that she had provided a list of questions to Mr. Noble and if she did not receive a response to those questions, she would not attend the October 1 meeting.

15. At the hearing, Mr. Noble testified that Student's mother refused to speak to Barbara Bouchard, the District's Director of Special Services, regarding the scheduling of IEP meetings and wanted him to arrange such meetings. However, Mr. Noble informed Student's mother that Mrs. Bouchard's position included the scheduling of such meetings.

16. On or about September 20, 2001, Mrs. Bouchard corresponded with Parents. Ex. R-7. In that letter, Mrs. Bouchard indicated that Principal Noble had informed her that Parents would not be able to attend the October 1 IEP. Ex. R-7. Therefore, Mrs. Bouchard wrote that the District was rescheduling the meeting for October 8, 201. Ex. R-7. Mrs. Bouchard included a notice of conference with that letter. Ex. R-8.

17. On or about September 26, 2001, Ms. Clark conversed with Student's mother on the telephone. During that conversation, Student's mother informed Ms. Clark that October 1 would have been a good meeting date. In response, Ms. Clark asked if Student's mother wished to change the meeting back to October 1 and Student's mother declined. During that conversation, Student's mother also stated that she wanted Ms. Felts to be present because Ms. Felts was the individual who would transport her to the meeting.

18. On or about September 27, 2001, Mrs. Bouchard corresponded with Parents with respect to the scheduled October 8 IEP meeting. Ex. R-10. In that letter, Mrs. Bouchard indicates that the District had provided two notices for the October 8 meeting and that another notice was not necessary. In addition, Mrs. Bouchard informed the Parents that if they did not have transportation to the meeting, the District would reimburse them for cab fare to ensure their participation. Ex. R-10.

19. On or about September 28, 2001, Parents corresponded with the District and indicated that they believed Mrs. Bouchard had misrepresented the facts regarding the scheduled IEP meeting. Ex. R-11. In that letter, Parents wrote that “we are telling you NOT to have a meeting on Oct. 8 or at any other time without us being present. We will take legal action if you do.” Ex. R-11.

20. On or about October 1, 2001, Mrs. Bouchard again corresponded with Parents. Ex. R-12. In that letter, Ms. Bouchard informed the Parents that the IEP meeting would be held on October 8 and reaffirmed the District’s offer of cab fare. Ex. R-12. In addition, Mrs. Bouchard indicated that the District would arrange for a telephone conference call to ensure the Parent’s participation if they were unable to attend in person. Ex. R-12.

21. Mrs. Bouchard testified that October 8 was selected as the meeting date because that was the only Monday on which the mandatory members of Student’s IEP team could convene and have Mr. Wicks present in time for Student’s annual review date of October 18.

22. On or about October 4, 2001, Parents corresponded with the District. Ex. R-13. In that letter, Parents indicated that they wanted answers to their questions prior to an IEP meeting. Ex. R-13. In that same letter, Parents also wrote that they intended to take the IEP scheduling issues to the Board of Education in an effort to remove Mrs. Bouchard from Student’s IEP team. Ex. R-13.

23. On or about October 4, 2001, Dr. Terry Adams, the then Superintendent of the District, corresponded with Parents and reaffirmed the October 8 IEP meeting. Ex. R-14.

24. On or about October 8, 2001, Student's IEP team met at the scheduled time. Ex. R-15, 16. Parents were in attendance. Mrs. Bouchard, Mr. Noble, Ms. Clark and Mr. Wicks, among others, also were in attendance. Ex. R-16. Darlene Felts did not attend. Ex. R-16. Although Student was invited to attend, he did not do so. The meeting lasted for approximately 2 – 2½ hours. Parents had full opportunity to participate in the meeting. Indeed, Student's mother was an active participant in the meeting and the IEP team was able to complete Student's annual review on that date. See Ex. R-16. Student's mother held the floor for at least 30 minutes and provided the team with a number of handouts and that information was considered by the team. It is not clear from the record as to whether information provided by Student's mother included information from Ms. Felts, but, in any event, there was ample opportunity to present information from Ms. Felts.

25. On or about October 29, 2001, Parents corresponded with the District and filed an internal complaint against Mrs. Bouchard. Ex. R-17. In that letter, they specifically requested that Mrs. Bouchard be removed from Student's IEP team. Ex. R-17.

26. On or about November 14, 2001, Parents corresponded with the District's Board of Education and requested to appear before the Board. Ex. R-19. In that letter, Parents requested that the Board remove Mrs. Bouchard from Student's IEP team. Ex. R-19.

27. On or about February 19, 2001, Jack Chaloupek, an advocate with Missouri Protection & Advocacy Services, filed a child complaint with the Missouri Department of Elementary and Secondary Education ("DESE") on behalf of Student. Ex. R-22.

28. On or about April 8, 2002, DESE submitted its written decision with respect to the child complaint filed by Mr. Chaloupek. Ex. R-22. In that decision, DESE concluded, *inter*

alia, that the District was in compliance with the requirements to schedule Student's October 2001 IEP meeting at a mutually convenient time. Ex. R-22 at 31.

29. On or about October 3, 2002, Parents filed a request for an IDEA due process hearing with DESE. Ex. R-25. In that request, Parents indicated that their issue for hearing was whether the October 8, 2001 IEP meeting was held at a mutually convenient time. Parents also alleged that the IEP team did not accord appropriate consideration to Mr. Wicks' input at the meeting. Ex. R-25, pp. 36-37.

30. On or about November 8, 2002, Parents filed a supplement or revised request for due process (Ex. R-25, pp. 53-54) wherein Parents additionally alleged that the October 8, 2001 IEP meeting was hostile and the District did not cooperate with Parents.

31. Student's mother called Barbara Bouchard to testify at hearing during Petitioners' case. Mrs. Bouchard has served as the District's Director of Special Services since 1999. Prior to that, she was an elementary principal in the District. During the time that Mrs. Bouchard was elementary principal and at Student's mother's request, Mrs. Bouchard was not permitted to attend Student's IEP meetings. However, since she assumed the Special Services Director position, the Board of Education directed Mrs. Bouchard to attend Student's IEP meetings. Mrs. Bouchard also confirmed that, in the past, Student's mother has attempted to have the Board terminate her employment.

32. Mrs. Bouchard further testified that Student's mother has included a variety of parent advocates in Student's meetings through the years. She further testified that, in the past, Parents have filed numerous child complaints against the District, had previously sued the District, and had previously filed due process against the District with respect to Student. In addition, Parents have also filed internal grievances with the District and requested to speak to the Board of Education in closed session. Most, if not all, of these actions taken by Parents were

in regard to the attempted removal of Barbara Bouchard from Student's IEP team or in an effort to have her employment with the District terminated.

33. Mrs. Bouchard's attendance at IEP meetings has not affected Parent's right to participate in those meetings and has had no impact on the IEP team's decisions regarding Student's education.

34. Student's mother did not testify and the witnesses she called to testify were employees or former employees of the District. No testimony was adduced that suggested that the IEP meeting of October 8, 2001, denied Student a free appropriate public education.

35. The annual review date for Student's IEP is October 18. The District's insistence to hold the 2001 IEP meeting before that date is well founded as it is legally questionable as to whether this date can be extended even by consent.

CONCLUSIONS OF LAW AND DECISION

Under the IDEA, all children with disabilities are entitled to a free appropriate public education ("FAPE") designed to meet their unique needs. 20 U.S.C. §§ 1412(a)(1); 1401(8). Significantly, the IDEA does not prescribe any substantive standard regarding the level of education to be accorded to disabled children, *Bd. Of Educ. of the Hendrick Hudson Central Sch. Dist. v. Rowley*, 458 U.S. 176, 189, 195 (1982), and does not require "strict equality of opportunity or services." *Id.* At 198. Rather, a local educational agency fulfills the requirement of FAPE by "providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." *Id.* At 203. As stated by the *Rowley* Court, an appropriate educational program is one that is "reasonably calculated to enable the child to receive educational benefits." *Id.* At 207; *Gill v. Columbia 93 Sch. Dist.*, 217 F.3d 1207, 1035-36 (8th Cir. 2000). While this standard of providing the appropriate education was, for a period of time, heightened by the case of *Lagares v. Camdenton R-III School District*, 68 S.W.3d 518

(2001), the standard as enunciated by the Eighth Circuit in *Gill, id.* is controlling in this case given that the October 8, 2001, IEP meeting was held prior to December 18, 2001, when the *Lagares* decision was rendered. In any event, there is nothing in the record to suggest that Student's educational services did not maximize his capabilities.

The primary vehicle for carrying out the IDEA's goals is the "individual education program" ("IEP"). 34 C.F.R. § 300.15. The IEP is a written statement that is developed to meet the "unique needs" of each disabled child, and is prepared at a meeting that includes representatives of the local educational agency, the child's current teacher(s), the parents or guardian of the child, and, whenever appropriate, the child. 34 C.F.R. §§ 30.340-347. Further, the IDEA requires that each IEP must be reviewed at least annually and, where appropriate, revised. 34 C.F.R. § 300.343(c)(1).

To achieve its goals, the IDEA "establishes a comprehensive system of procedural safeguards designed to ensure parent participation in decisions concerning the education of their disabled children and to provide administrative and judicial review of any decisions with which those parents disagree." *Honig v. Doe*, 484 U.S. 305, 308 (1988). In recognizing that a consensus regarding a child's proper placement and IEP would not always be possible, Congress provided for administrative review of an IEP determination at the request of either the parents or guardian or the local educational agency and, after exhaustion of the administrative review process, judicial review in a state or federal court. If the parents disagree with the IEP, or proposed changes to the IEP, the status must provide them with an impartial due process hearing. 20 U.S.C. § 1415(b); 34 C.F.R. § 300.507.

A review of whether a district has complied with the IDEA involves a two-part inquiry: first, has the educational agency complied with the IDEA's procedures; and second, is the IEP developed through those procedures reasonably calculated to enable the child to receive

meaningful educational benefits. *Board of Educ. v. Rowley*, 458 U.S. 176, 206-07 (1982). In the instant case, the primary issue before the Panel is whether the District complied with IDEA's procedural requirements.

Congress plainly emphasized the importance of the IDEA's procedural safeguards so that parents would be able to participate in the development of a student's IEP. *Independent Sch. Dist. No. 283*, 88 F.3d at 562. Significantly, however, well-established law sensibly acknowledges that minor technical procedural violations should not lead to a finding of a denial of FAPE. *Id.* At 567; *Evans v. Dist. No. 1 of Douglas County, Neb.*, 841 F.2d 823, 825 (8th Cir. 1998). As one court has noted, "[t]o hold that technical deviations from the IDEA's procedural requirements render an IEP entirely invalid would "exalt form over substance." *Doe v. Defendant 1*, 898 F.2d 1186, 1190 (6th Cir. 1990), *reg's denied* (1990). Thus, liability for an IDEA procedural violation may be found only if the violation compromised the student's right to an appropriate education, seriously hampered the parents' opportunity to participate in the IEP process, or caused a deprivation of educational benefits. *Independent Sch. Dist. No. 283*, 88 F.3d at 562.

Clearly, one of those procedural rights is the parents' right to participate in the IEP process. Indeed, section 300.344 of the federal regulations enumerates those individuals whose participation in IEP meetings is mandatory. More specifically, Section 300.344 provides, in pertinent part, as follows:

The public agency shall ensure that the IEP team for each child with a disability includes –

- (1) The parents of the child.
- (2) At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- (3) At least one special education teacher of the child, or if appropriate, at least one special education provider of the child;
- (4) A representative of the public agency who –

- (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (ii) Is knowledge about the general curriculum; and
 - (iii) Is knowledgeable about the availability of resources of the public agency;
- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team describe in paragraphs (a)(2) through (6) of this section;
- (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (7) If appropriate, the child.

Notably, the IDEA places the initial obligation on school districts to initiate the IEP process. *See* 34 C.F.R. § 300.343. More specifically, section 300.345 provides that “[e]ach public agency shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including – (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend.” 34 C.F.R. § 300.345(a)(1). That same regulation also requires the district to schedule “the meeting at a mutually agreed on time and place.” 34 C.F.R. § 300.345(a)(2).¹

In the comments to this particular federal regulation, the Department of Education indicated that “[t]he key factor in § 300.345(a) is that public agencies effectively communicate with parents about the up-coming IEP meeting, and ***attempt to arrange a mutually agreed upon time and place for the meeting.*** This process should accommodate the parents’ work schedules to ensure that one or both parents are afforded the opportunity to participate.” Fed. Reg. Vol. 64, No. 48 at 12587 (emphasis added).

Neither the statute nor regulations define what is meant by a mutually agreed upon time. *See* 34 C.F.R. § 300.345(a); *see also Houston Indep. Sch. Dist.*, 31 IDELR 74 (SEA Texas No. 6,

¹ Notably, that same regulation provides that “[a] meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. “*See Burlobich v. Bd. Of Educ. of Lincoln*, 208 F.3d 560 (6th Cir. 2000) (finding that parents failed to demonstrate that they were denied participation in the special education process where they expressed their views and had opportunity to participate at IEP meetings).

1998); *Madera (CA) Unified Sch. Dist.*, 33 IDELR 136 (OCR Aug. 31, 1999). As noted in the *Houston* case,

The IDEA does not require that [IEP] meetings be scheduled at convenient times for the parent. It requires that they be scheduled at a mutually agreed on time and place. Since the IDEA does not specify the procedures to be used, it is assumed that the parties will negotiate and reach a mutually agreeable time and place for conducting the [IEP] meeting or will make other arrangements for parent participation. How that occurs is left up to the parties to decide. The only requirement is that the parents be given the opportunity to participate at the [IEP] meeting by attempting to arrange a mutually agreed on time and place.

31 IDELR 74, at *7. Further, the IDEA does not require that school districts consult with parents prior to sending out a meeting invitation or notification. *Id.* Most specifically, where the parents are given an opportunity to participate and the parent does attend and participate in the IEP meeting, a complaint that the meeting was not scheduled at a mutually convenient time is without merit. *See Houston Indep. Sch. Dist.*, 31 IDELR 74, at *7; *see also Madera*, 33 IDELR 136, at *4-5 (where district suggested different times for IEP meeting other than one originally proposed, offered the parent an opportunity to participate via telephone conference call, and where parent did not attend meeting, OCR found that district sought to provide mutually convenient IEP meeting).

In the instant case, the evidence at hearing establishes that the Central R-III District fully complied with its obligation to attempt to arrange an IEP at a mutually convenient date. The District rescheduled the October 1 meeting after being notified by Parents that the Parents would not attend on that date. In rescheduling the meeting, the District arranged for a time that would allow all mandatory participants to be present in compliance with the requirements of IDEA and provided appropriate notice. Significantly, the IEP meeting had to be scheduled at a time that would permit David Wicks to attend. Of paramount importance, Parents attended and participated in the meeting.

Decision

Wherefore, for the foregoing reasons, the panel finds that the District complied, in all relevant respects, with IDEA requirements and Parents' claim that the IEP meeting of October 8, 2001 was not conducted at a mutually convenient time is without merit.

The record is replete with Parents' acrimony and personal vendetta directed against Barbara Bouchard. The cause of Parents' mission to terminate Mrs. Bouchard's employment was not evident. Whatever motivates this mission is perplexing in light of the fact that Student has displayed exceptional educational progress.

Appeal Procedure

PLEASE TAKE NOTICE that this Decision constitutes the final decision of the Department of Elementary and Secondary Education in this matter.

PLEASE TAKE NOTICE that you have a right to request a review of this Decision pursuant to the IDEA and/or the Missouri Administrative Procedures Act, Section 536.010 *et seq.* RSMo. Specifically, Section 536.110 RSMo. provides in pertinent part as follows:

- “1. Proceedings for review may be instituted by filing a petition in the circuit court of the county of proper venue within *thirty days* after the mailing or delivery of the notice of the agency's final decision. . .
3. The venue of such cases shall, at the option of the plaintiff, be in the circuit court of Cole County or in the county of the plaintiff or of one of the plaintiff's residence. . .”

PLEASE TAKE NOTICE that you also have a right to file a civil action in Federal or State Court pursuant to the IDEA. See 34 C.F.R. § 300.512.

Dated: _____

Richard H. Ulrich, Hearing Officer

All panel members concur.

Mr. Fred Davis, Hearing Panel Member

Dr. Betty Chong, Hearing Panel Member

CERTIFICATE OF SERVICE

The undersigned certifies that on the _____ day of December, 2002, a copy of the foregoing was served upon the following parties to this action by depositing same in Federal Express at St. Louis, Missouri, postage prepaid, duly addressed to:

Parents

Ms. Teri B. Goldman
36 Four Seasons Center, #136
Chesterfield, Missouri 63017
Attorney for School District

Pam Williams, Director
Special Education Compliance
Department of Elementary & Secondary Education
Post Office Box 480
Jefferson City, Missouri 65102

and further a copy of the foregoing was served upon the following parties by depositing same in the U.S. Mail, postage prepaid this _____ day of December, 2002, addressed to:

Mr. Fred Davis
9345 Ewers
Crestwood, MO 63126
Panel Member

Dr. Betty Chong
Assistant Superintendent for Special Services
Cape Girardeau Public Schools
61 North Clark
Cape Girardeau, MO 63701
Panel Member
